

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Andrew Timko,
Plaintiff

v.

Credit Control, LLC,
Defendant

Docket 3:23-cv-00902-KM

(Magistrate Judge Karoline
Mehalchihck)

PLAINTIFF'S MOTION TO STAY WITH CONSENT

1. It is unclear whether this Court has subject matter jurisdiction to hear this case. The Third Circuit is presently considering a substantively identical case that will be dispositive. Plaintiff requests that this case be stayed until the Circuit issues its opinion.

2. In *Barclift v. Keystone Credit Servs., LLC*, No. 22-1925 (3d Cir. 2023)(pending), the Circuit is set to decide whether federal jurisdiction exists for a claim that a debt collector violated 15 U.S.C. § 1692c(b) by using a third-party mailing vendor to transmit collection letters on its behalf.

3. Plaintiff here asserts exactly the same claim.

4. Courts are in disagreement as to whether such a claim asserts the concrete injury necessary to confer Article III standing. Cf., *Jennings v. IQ Data Int'l Inc.*, 2023 WL 3224482, at *4 (W.D. Wash. May 3, 2023)(finding standing), with *Burris v. Weltman, Weinberg & Reis, Co., L.P.A.*, 2022 WL

3580766 (M.D. Pa. Aug. 19, 2022)(Kane, J.)(no standing) and *Hunstein v. Preferred Collection & Mgmt Servs.*, 48 F4th 1236 (11th Cir. 2022)(same).

5. Because of the uncertainty regarding standing, Plaintiff filed this action in state court where any standing hurdle is substantially lower.

6. The Circuit's ruling in *Barclift* will answer the jurisdiction question in the instant case. Plaintiffs submit that little would be gained from briefing that question here before the Circuit issues its ruling. Oral argument in *Barclift* was held on March 30, 2023.

7. Plaintiff submits that it would be appropriate to administratively close this case and allow the parties to have it reopened after the Circuit's ruling. *See, e.g., Jennifer Melore v. Credit Control, LLC*, 3:23-cv-00729-MCC, Doc. 7 (M.D. Pa. May 19, 2023)(granting substantively identical motion).

WHEREFORE, Plaintiff respectfully requests that the Court enter an order administratively closing this case and allowing the case to be reopened upon request of either party after the Third Circuit's decision in *Barclift*.

s/ Carlo Sabatini

Carlo Sabatini, PA 83831

Attorney for Plaintiff

Sabatini Law Firm, LLC

216 N. Blakely Street

Dunmore, PA 18512

Phone (570) 341-9000

Facsimile (570) 504-2769

Email: ecf@bankruptcypa.com

CERTIFICATE OF CONCURRENCE

Defendant concurs.

s/ Carlo Sabatini

Carlo Sabatini

CERTIFICATE OF SERVICE

Defendant is being served through the CM/ECF system.

s/ Carlo Sabatini

Carlo Sabatini